

In re ) Fair Hearing No. 15,313  
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Appeal of )

The petitioner appeals the decision by the Department of Social Welfare limiting the amount of Medicaid coverage for mental health services to her for the period October 15 through December 31, 1997.<sup>1</sup> The issue is whether the petitioner presented compelling reasons for an extension of services beyond those granted by the Department during that period as an exception to its annual \$500 limitation of such services.

1. The record indicates that the petitioner, a forty-five-year-old woman, has been in mental health therapy for many years with a diagnosis of disassociative identity disorder. Her symptoms include a chronic eating disorder, fearfulness, and fatigue.

2. Under the Department's regulations (see infra), unless a specific exception is authorized, medicaid coverage for psychological services is generally limited to \$500 in a

<sup>1</sup>The Department initially denied requested services to the petitioner for the period September 22 through December 31, 1997. However, due to its delay in notifying the petitioner of its denial, the Department has agreed to cover the services requested by the petitioner from September 22 through October 15, 1997.

calendar year. It appears that for the past several years the petitioner's therapy has been ongoing, and that she has previously required extensions of this limitation.

3. In March, 1997, the petitioner had to begin working with a new therapist after her therapist of many years was forced to retire due to illness. Prior to September 22, 1997, the Department had approved visits with her new therapist of two one-hour sessions per week.

4. On September 11, 1997, the petitioner's current therapist submitted a request to the Department's Medicaid access consultants (IPRO) for Medicaid coverage for the rest of 1997 for two ninety-minute sessions per week. He noted that the petitioner's eating disorder had worsened over the past few months and that she "continued to dissociate, not eat regular meals, (and) be physically fatigued and depressed".

5. In a decision dated October 15, 1997, the Department (IPRO) approved only one one-hour session per week for the remainder of 1997, stating that "there is no rationale for an (increase) in allotted time provided in current extension request". The Department's rationale noted that "too much (therapy) is regressive", but it did not otherwise address or explain why it was approving a decrease in the petitioner's services.

6. On November 24, 1997, the petitioner's therapist submitted an amended request for services of two one-hour

sessions per week. That request included the noting of recent weight loss, situational stresses, and illnesses in the petitioner. In a decision dated December 11, 1997, the Department affirmed its earlier decision (one one-hour session per week) without further rationale.

7. The petitioner states that her therapist continued to see her from September 22 through December 31, 1997, for two ninety-minute sessions per week.

8. As of January 1, 1998, the Department approved the petitioner for a "new cycle" of two one-hour sessions per week.

9. Based on the above, it is found that the petitioner's condition and her need for therapy did not appreciably change over the period in question. If anything they became more acute. The Department had approved her for two one-hour sessions per week for the months prior to September 22, 1997. Although the petitioner's therapist initially requested an increase in services and clearly documented a deterioration in the petitioner's condition, he subsequently requested a continuation of this same level of therapy for the duration of 1997. And, as of January 1, 1998, the Department resumed approval of two one-hour sessions per week. There is absolutely no evidence that any therapy the petitioner has received has been "regressive".

10. Therefore, it must be found that for the period September 22 through December 31, 1997, the petitioner

demonstrated a compelling need for therapy sessions twice weekly of one hour duration.

ORDER

The Department's decision is modified to grant approval of the petitioner's request for twice-a-week hour-long therapy sessions for the period October 15 through December 31, 1997.

REASONS

The Medicaid regulation governing psychological services, MM § M660, sets out an annual \$500 limitation on such services unless the Department expressly grants an "extension" of those services. The regulation is silent, however, as to the criteria for granting such extensions.

Section M611, which addresses psychiatric services, contains a similar annual monetary limitation as well as a similar provision for extensions. That regulation provides that extensions are to be granted when there are "compelling reasons". See Fair Hearing No. 14,468. In the absence of any other guidance in the regulations, and there being no indication from the Department in this case to the contrary, it is assumed that the Department uses the same standard in determining extensions of psychologists' services.

As noted above, the evidence in this matter was compelling and uncontroverted that the petitioner required

continuing sessions with her psychologist of at least one hour twice a week to maintain and protect her fragile mental and physical health during the period in question. The Department approved services of that frequency for the months immediately preceding and following the period in question. There is simply no evidence that the petitioner did not need at least the same level of service during those months as well. The Department's decision is, therefore, modified accordingly.

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